

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County ALLEN	District Hearings Section TOLEDO	Assistance Group Name		Assistance Group Number
Place of Hearing ALLEN CDJFS	Initial Hearing Date 12/02/2004	Rescheduled Postponed to	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation E. Bunke-Inv. D. Coffey-Day Care Sup.

Date Notice Mailed	Date Received by Local Agency	Date Received by ODHS 11/09/2004	Date Appeal Summary Received 01/28/2005	Date Scheduling Notice Mailed 11/19/2004
Appeal Number(s)/Program(s) 1200911/CC				

Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Office of Legal Services within 15 calendar days from the date this decision is issued. *(If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.)* During the 15-day administrative appeal period you, or your representative, may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

ISSUE SECTION

Appellant got child care assistance through the Allen County Department of Job and Family Services. Allen County determined Appellant's child care provider was overpaid \$837 for the month of November 2003. Allen County issued advising Appellant of this and, his and responsibility to repay the overpayment. In disagreement Appellant requested a state hearing.

I find Allen County's determination correct. Appellant's child care provider was overpaid \$837 in child care assistance and Appellant is responsible to repay the overpayment. This appeal is overruled.

PROCEDURAL MATTERS

Appellant requested a state hearing about a child care overpayment. Request date is 11/09/04. A state

DCL

Appeal(s) OVERRULED 1200911	Date Issued 02/01/2005	Compliance
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

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hearing was held 12/02/04 and a decision rendered on 12/03/04. The decision overruled the appeal citing the merits could no longer be addressed through a state hearing. Appellant requested an administrative appeal. The administrative appeal officer ordered the case be vacated and remanded to address the merits of the appeal. The remanded state hearing was scheduled for 01/26/05 and held by telephone conference between Allen CDJFS and Toledo Regional Hearing Office. Appellant and three (3) Allen County representatives attended and were sworn in.

FINDINGS OF FACT

1. Appellant received child care assistance through Allen CDJFS.
2. Allen County conducted a redetermination review of Appellant's eligibility for child care assistance.
3. Appellant submitted an application as part of the redetermination review. Child support income was not listed on the application.
4. Allen discovered Appellant also gets child support.
5. During the month of November 2003 Appellant got \$659 in child support, earned \$2,344 in gross earnings, and paid \$198 in child support.
6. Assistance group size is four.
7. Total income for the month of November 2003 is \$3,003. Less \$198 child support payment equals \$2,805 in countable income.
8. The 165% federal poverty level for November 2003 was \$2,530.
9. \$837 was paid to Appellant's child care provider for the month of November 2003.
10. Allen County terminated Appellant's child care assistance on 03/01/04.
11. Appellant requested a state hearing about the termination of his child care assistance. A decision rendered on 03/24/04 found Allen County's decision to terminate child care assistance correct and overruled the appeal.
12. Allen County issued notice of the overpayment on 03/31/04.

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13. Allen County issued second notice of the overpayment 11/04/04.

14. Appellant requested a state hearing. Request date is 11/09/04.

CONCLUSIONS OF POLICY

Allen County determined Appellant's child care provider was overpaid \$837 for the month of November 2003. Allen County issued notice advising Appellant of this and, his responsibility to repay the overpayment. In disagreement Appellant requested a state hearing. Appellant contends that he reported receipt of child support to Allen County and he should not be faulted for an error caused by Allen County.

Ohio Admin. Code 5101:2-16-73(A) defines a child care overpayment as, "Child care benefits which the recipient received but for which the recipient was not eligible and for which the CDJFS has reimbursed the child care provider. In this case Allen conducted a redetermination review as required under Ohio Administrative Code 5101:2-16-35(J). Although Appellant contends he reported receipt of child support income at this time, it was not listed on the application and Allen County did not use it to determine child care eligibility. This is income that should have been included to determine child care assistance eligibility (Ohio Administrative Code 5101:2-16-30). \$2,344 in gross earned income, \$659 in child support income and \$198 in child support payments for November 2003 are not in dispute. Income totals \$3,003. Less \$198 in child support payments reduces gross monthly income to \$2,805. This amount exceeds the 165% federal poverty level therefore Appellant became ineligible for child care assistance for the month of November 2003. Regardless to whether the error was caused by the Appellant or caused by Allen County, Ohio Administrative Code permits Allen County to establish and collect an overpayment (Ohio Admin. Code § 5101:2-16-73). Appellant's child care provider was reimbursed \$837 for the month of November 2003. Since Appellant was not eligible for child care assistance \$837 is the overpayment amount. Considering this I can find no error on the part of Allen County.

HEARING OFFICER'S RECOMMENDATION

Based on the record before me, I find this appeal should be overruled.

FINAL ADMINISTRATIVE DECISION AND ORDER

Finding the Hearing Officer's decision to be supported by the evidence, the recommendation above is adopted and this appeal is overruled.

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CONTENTS OF RECORD

Exhibits

- A. Interoffice Memorandum
- B. Overpayment Determination
- C. State Hearing Decision (C1-C3)
- D. Day Care Payment Record (D1-D2)
- E. Child Support History (E1-E2)
- F. Earned Income Payment History
- G. Overpayment Notice (G1-G2)
- H. Overpayment Notice (H1-H2)
- I. Application (I1-I7)

Date Issued: 02/01/2005